mischaracterized Diamond's brief as failing to address the retaliation claim, she was not relieved of her obligations to object to that error. In the absence of "specific written objection," the district court was not required to conduct a *de novo* review and Diamond waived her right to an appeal on that claim. *See Wells v. Shriners Hosp.*, 109 F.3d 198 (4th Cir. 1997).

B. *The Shifting Burden Analysis Remains Appropriate and Diamond Fails to Demonstrate Pretext*

The Fourth Circuit has taken the position that *post-Desert Palace*, the ultimate question remains whether the plaintiff in an employment discrimination case or disparate treatment is a victim of intentional discrimination. *See Hill v. Lockheed Martin Logistics Mgmt.*, 354 F.3d 277 (4th Cir. 2004) (quoting *Reeves v. Sanderson Plumbing Prods., Inc.*, 520 U.S. 133, 153 (2000)). As Diamond did not allege a mixed motive theory, the shifting burden analysis was properly found to be applicable to this case by the appeals court. The evidence, in total, demonstrated that Diamond failed to make a showing sufficient to survive summary judgment. No court has found credible evidence of discriminatory intent by Colonial Life.

Furthermore, based on a plain reading of the record, there is no basis to conclude that Diamond was the more qualified of the candidates for the position for which she sought promotion. Nor is there any basis to infer an illegal discriminatory intent in Colonial Life's decision to hire the candidate its managers found to be the most qualified applicant.

There is nothing in the record to indicate that Diamond was the victim of intentional discrimination and summary judgment as to the federal claims was appropriate.

CONCLUSION

For the reasons stated above, the petition for a writ of certiorari should be denied.

Respectfully submitted,

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